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UNITED STATES DISTRICT COURT
 NORTHERN DISTRICT OF CALIFORNIA
 SAN JOSE DIVISION

KATHLEEN VENTIMIGLIA,
 individually, and as the Guardian Ad Litem
 for STEPHEN VENTIMILIA and KELLIE
 VENTIMILIA,
 Plaintiffs,
 v.
 UNITED STATES OF AMERICA,
 CHAMBLIN-LANDES
 CONSTRUCTION, INC., a California
 corporation, and DOES 1-50, inclusive,
 Defendants

No. 07-05481 RS

JOINT CASE MANAGEMENT
 STATEMENT

Date: February 27, 2008
 Time: 2:30 p.m.
 Courtroom 4, 5th Floor
 Honorable Richard Seeborg

The parties submit the following joint management conference statement. Where the parties do not agree on facts or other issues, they have attempted to state to which party a statement or contention should be attributed.

1. Jurisdiction and Service.

There are no counterclaims and no issues exist as to personal jurisdiction or venue. All named defendants have been served, except for those fictitiously named. Answers to plaintiff's complaint have been filed and served upon plaintiff by both defendants. As to defendant United States of America, this action arises under the Federal Tort Claims Act ("FTCA").

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1 Defendant USA has asserted an affirmative defense of lack of subject matter jurisdiction due to
2 the discretionary function exception in the FTCA. 28 U.S.C. § 2680(a).

3 **2. Facts**

4 This is a wrongful death action. Plaintiff's decedent, Joseph Ventimiglia, was playing
5 golf by himself at the Monterey Pines Golf Course in Monterey, California on or about
6 November 29, 2005. Plaintiff alleges that Mr. Ventimiglia slipped and fell into a pond located
7 at the golf course and that he was unable to get out of the pond due to the design of the pond.
8 No one witnessed the incident. Mr. Ventimiglia's body was found in the pond the next day.

9 Plaintiff is Kathleen Ventimiglia, decedent's widow. She is also acting as the guardian
10 ad litem for her children, Stephen and Kellie Ventimiglia.

11 The Monterey Pines Golf Course is owned and operated by defendant United States of
12 America, through the Department of the Navy.

13 Defendant Chamblin-Landes Construction, Inc. performed work related to the subject
14 pond.

15 Plaintiff contends that the pond represented an unreasonably dangerous condition,
16 which led to the death of Mr. Ventimiglia. Defendants deny plaintiff's allegations of
17 negligence.

18 **3. Legal Issues**

19 A. Whether the discretionary function exception to the Federal Tort Claims Act
20 bars plaintiff's claims against the United States.

21 B. Whether conduct on the part of plaintiff's decedent was the proximate or legal
22 cause of his death.

23 C. Whether conduct on the part of the defendants was the proximate or legal cause
24 of plaintiff's decedent's death.

25 **4. Motions**

26 No motions are pending. Defendant USA anticipates filing a motion to dismiss or
27 motion for summary judgment relating to the discretionary function exception to the Federal
28 Tort Claims Act.

1 **5. Amendment of Pleadings**

2 None anticipated at this time.

3 **6. Evidence Preservation**

4 All parties have taken steps to preserve relevant evidence. The parties are unaware at
5 this time of any document destruction program or of erasures of any electronically recorded
6 material relevant to the issues herein.

7 **7. Disclosures**

8 All parties will complete initial disclosures prior to the case management conference.

9 **8. Discovery**

10 At this time, the parties believe that the discovery should follow the restrictions stated in
11 the Federal Rules of Civil Procedure. The parties currently anticipate propounding written
12 discovery, including interrogatories, document requests, and subpoenas for records, as well as
13 taking various depositions. If the case proceeds past the motion stage, the parties anticipate
14 hiring experts on a variety of subjects, possibly including golf course design issues and
15 economic damages.

16 **9. Class Actions**

17 This case is not a class action.

18 **10. Related Cases**

19 The parties are not aware of any related cases.

20 **11. Relief**

21 Plaintiff seeks general and special damages according to proof, as well as prejudgment
22 interest and fees and costs.

23 **12. Settlement and ADR**

24 The parties believe that any ADR proceeding is likely to be more useful after some
25 reasonable opportunity for discovery and defendant USA's anticipated motion. Because the
26 alleged damages in this case are substantial, and because the defendants dispute liability, the
27 parties do not believe that early ADR would be productive. However, at the appropriate time,

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1 the parties are agreeable to a settlement conference with a Magistrate Judge or private
2 mediation.

3 **13. Consent to Magistrate Judge for All Purposes**

4 All parties consent to proceedings before a magistrate judge.

5 **14. Other References**

6 The case is not suitable for reference to binding arbitration, a special master, or the
7 Judicial Panel on Multidistrict Litigation.

8 **15. Narrowing of Issues**

9 Except as noted above with regard to the discretionary function exception, the parties do
10 not anticipate that issues can be narrowed by motion.

11 **16. Expedited Schedule**

12 The parties do not request an expedited schedule.

13 **17. Scheduling**

14 Defendant USA believes that its motion regarding subject matter jurisdiction could be
15 filed within approximately 90 days. Accordingly, defendant USA proposes that the Court
16 conduct another case management conference following the hearing on that motion, at which
17 time the remainder of the case schedule can be set.

18 **18. Trial**

19 As to defendant USA, the FTCA requires a bench trial. Plaintiff and defendant
20 Chamblin-Landes Construction, Inc. have demanded a jury trial. Should this case proceed to
21 trial as to all defendants, the parties estimate that the trial will take approximately 4-5 court
22 days.

23 **19. Disclosure of Non-party Interested Entities or Persons**

24 While the parties have not filed a "Certification of Interested Entities or Persons," the
25 parties are not aware of any nonparties with a financial interest in this action, or any other kind
26 of interest that could be substantially affected by the outcome of the proceeding. Plaintiff does
27 acknowledge that her legal counsel will be compensated only if she recovers for her and her
28 children's damages herein.

20. Other Matters

At this time, the parties know of no other matters that may facilitate the just, speedy and inexpensive disposition of this matter.

Respectfully submitted,

DATED: February 6, 2008

JOSEPH P. RUSSONIELLO
United States Attorney

/s/ Claire T. Cormier

CLAIRE T. CORMIER
Assistant United States Attorney

DATED: February 6, 2008

CORSIGLIA, McMAHON & ALLARD LLP

/s/ electronic signature authorized

BRADLEY M. CORSIGLIA
Attorneys for Plaintiffs

DATED: February 6, 2008

EMERSON, COREY & SORENSEN

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